

**YOUTHFUL OFFENDER PAROLE BOARD**

1029 J STREET, STE. #500
SACRAMENTO, CA 95814
(916) 322-9800
FAX (916) 322-8802

**TITLE 15
YOUTHFUL OFFENDER PAROLE BOARD
PUBLIC NOTICE
OF PROPOSED RULEMAKING**

NOTICE IS HEREBY GIVEN that the Youthful Offender Parole Board ("Board") proposes to amend the regulation described below after considering all comments, objections, or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend §§ 4900, of Title 15, California Code of Regulations (CCR).

PUBLIC HEARING

The Board will hold a public hearing from 9:00 a.m.-12:00 noon on July 9, 2001, at the Youthful Offender Parole Board, 1029 J Street, Suite 500, Sacramento, California.

At the hearing, any person may present oral or written statements or arguments relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons who make oral comments at the hearing submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his/her duly authorized representative, may submit comments relevant to the proposed regulatory action to the Board. The written comment period closes at 3:00 p.m. on July 9, 2001. All comments must be received by that time.

Submit comments to:

Primary contact person:

Person to ask substance questions:

Connie Erlich
Youthful Offender Parole Board
1029 J Street, Suite 500
Sacramento, CA 95814
Telephone: (916) 322-9800
Fax: (916) 322-8802
E-mail: cerlich@yopb.ca.gov

Alternate contact person:

Shelly Jones
Youthful Offender Parole Board
1029 J Street, Suite 500
Sacramento, CA 95814
Telephone: (916) 322-9800

AUTHORITY AND REFERENCE

Welfare and Institutions Code (WIC) § 1721 authorizes the Board to adopt the proposed regulation which would implement, interpret or make specific numerous sections of the Welfare and Institutions Code, including §§ 1176 through 1766.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

WIC § 1719 defines the powers and duties of the Board, and § 1721 authorizes the Board to implement regulations carrying out those responsibilities. Current law and proposed regulatory changes are as follows:

§ 4900 (b)(9) currently requires Full Board Panels to have at least one Board Member participating in the hearing.

Proposed changes allow member participation in Full Board Panels to be permissive, rather than mandatory, thereby avoiding caseload build-up.

The proposed action amends an existing regulation to enhance quality management and effectiveness while:

- clarifying and making specific the Board's procedures while adhering to the Administration's philosophy and statutory mandates to ensure public safety;
- striving toward the Administration's goal to develop processes that entail less governmental bureaucracy (resultant reduced workload and expense);
- streamlining and simplifying the process;
- re-engineering procedures for process improvement;
- addressing previous downsizing mandates by reducing the number of hearings while maintaining due process, quality, effectiveness, and accountability, and;
- reducing the error rate created by the complexity of the current system.

Additionally, changes were made for improved clarity, including corrections in spelling and renumbering of sections.

DISCLOSURES REGARDING THE PROPOSED ACTION

Unnecessary Conflict or Duplication of Federal Regulations or Statutes

No federal regulations or statutes apply to this area of regulation. The Federal Bureau of Prisons has jurisdiction over the management and regulation of all federal penal and correctional institutions. Since Bureau of Prison authority does not extend to state penal/correctional institutions, there is no conflict between federal codes or regulations and regulations passed by the Youthful Offender Parole Board.

Other Matters Statutorily Prescribed

The Board and the Director of the Youth Authority are required to cooperate in developing policies to obtain mutual objectives (Welfare and Institutions Code § 1714). Board proposed regulations are thoroughly discussed and approved at joint meetings.

The Board must submit proposed regulations to the Board of Corrections for information purposes or review and advice (Penal Code § 6025.5).

These are the only other matters prescribed, pursuant to 11346.1 (b) or 11346.5 (a)(4) of the Government Code, pertaining to the proposed regulation of the Board.

Mandates to Local Agencies or School Districts

The proposed regulation does not impose mandates upon local agencies or school districts (Government Code § 11346.5 (a)(5)).

Costs or Savings to State Agencies or in Federal Funding to the State, and Costs to Local Agencies and School Districts

The proposed regulation results in no increased costs or savings to any State agencies; involves no cost to any local agency or school district; involves no other non-discretionary costs or savings to local agencies; and will not involve any costs or savings in federal funding to the State (Government Code § 11346.5 (a)(6)).

Initial Determination of Effect on Housing Costs

Proposed regulation has no effect upon housing costs (Government Code § 11346.5 (a)(12)).

Declaration of Initial Determination Regarding Economic Impact on Business

The Board declares adoption of the proposed regulation will not have a significant, statewide, adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, because California businesses are not required to comply with the proposed regulation. Regulations passed by the Board govern only the functions of the Board in carrying out its responsibilities (Government Code § 11346.5 (a)(8)).

Results of Assessment Required by 11346.3 (b) of Government Code

Proposed regulation will not create nor eliminate jobs within California; will not create new businesses nor eliminate existing businesses within California, and; will not affect the expansion of businesses currently doing business within California. (Government Code § 11346.5 (a)(10)).

Finding Prescribed by 11346.3 (c) of Government Code

Proposed regulation makes no reporting requirements upon businesses (Government Code § 11346.5 (a)(11)).

Cost Impacts on Representative Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action (Government Code § 11346.5 (a)(9)).

Determination of Effect on Small Business

The proposed regulation relates to the powers and duties of the Board and has no impact upon small businesses. Such powers and duties, set by statute, may not be contracted to private industry. Additionally, the proposed regulation requires no small businesses to comply with, enforce, derive a benefit from, or incur a detriment from its enforcement (California Code of Regulations, Title 1 § 4).

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the regulatory action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

The Board invites interested persons to submit written statements or arguments with respect to alternatives to the proposed regulation during the written comment period.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the above-listed address pursuant to Government Code § 11346.5 (b). As of the date this notice is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons and the statement of emergency. Copies may be obtained by contacting Connie Erlich or Shelly Jones at the address or telephone number listed above. The notice, initial statement of reasons and text may be viewed on the Board's web site at <http://www.yopb.ca.gov>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing, the Board may adopt the proposed regulation substantially as described in this Notice. If the Board makes modifications which are sufficiently related to the proposed text, it will make the modified text, with changes clearly indicated, available to the public for at least 15 days before the Board adopts the regulation as advised pursuant to Government Code § 11346.8(c). Requests for copies of any modified regulation should be addressed to the above-listed contact person.

AVAILABILITY OF FINAL STATEMENT OF REASONS

After the close of the public comment period, a final statement of reasons will be prepared and made available to the public. Requests for copies of the final statement of reasons should be addressed to the above-listed contact persons. The final statement of reasons may also be viewed at <http://www.yopb.ca.gov>.

INITIAL STATEMENT OF REASONS

The Specific Purpose of Each Proposed Regulatory Change

The proposed amendment relates primarily to the Board's rules of construction and definitions. This regulatory action takes a previously approved emergency regulation through the regular rulemaking process.

§ 4900 (b)(9) currently requires Full Board Panels to have at least one Board Member participating in the hearing. Proposed changes allow member participation in Full Board Panels to be permissive, rather than mandatory, thereby avoiding caseload build-up.

Technical, Theoretical, Empirical Study, Report or Document Relied Upon

The Youthful Offender Parole Board (Board) has relied upon expert opinion pursuant to Government Code § 11346.2(b)(2) and California Code of Regulations Title 1 § 10(b)(2).

The scope of authority for Board regulations encompasses only those regulations governing the performance of the Board's functions set forth in Welfare and Institutions Code (WIC) § 1719: return of persons to the court of commitment for redispotion by the court; discharge of commitment; orders to parole and conditions thereof; revocation or suspension of parole; recommendation for treatment program; determination of the date of next appearance and; return of nonresident persons to the jurisdiction of the state of legal residence.

Board Members have a broad background in and ability for appraisal of youthful law offenders and delinquents, the circumstances of delinquency for which committed, and the evaluation of the individual's progress toward reformation (WIC § 1717(a)). Special skill and knowledge by reason of study and experience make them qualified experts in this field.

Additionally, the Board consults and relies upon the expertise of the California Youth Authority (CYA) Director and staff recommendations regarding the Board's proposed rules. Board Members' premise regulatory proposals (WIC § 1721(a)) upon qualifying experience and expert opinion.

Less Restrictive Reasonable Alternatives

No less restrictive reasonable alternatives have been brought to the Board's attention. The proposed regulatory changes represent the most effective, least restrictive reasonable alternatives currently known to the Board.

Alternatives Lessening Adverse Impact on Small Business

The proposed regulations impose no adverse impacts upon small business, because small businesses are not required to comply with these regulations. Regulations passed by the Board govern only the functions of the Board.

Initial Determination of No Adverse Economic Impact Upon Business

The proposed regulations relate to the powers and duties of the Board, which are set by statute and may not be contracted to private industry. Businesses do not comply with, enforce, derive a benefit or incur a detriment from these regulations.

TEXT & AUTHORITY

§4900. Rules of Construction and Definitions.

- (b) Definitions. For the purpose of the regulations contained in this chapter the following words shall have the following meanings:
- (1) (Reserved)
 - (2) Annual Review. Reexamination of individual ward cases by the Board which is held at intervals not exceeding one year for the purpose of determining whether existing orders and dispositions should be modified or continued in force.
 - (3) Board Hearing Coordinator. A Board employee who arranges and coordinates rescission, probable cause/detention, violation and disposition hearings.
 - (4) Board Panel. A Board panel is comprised of two qualified hearing officers. A quorum for a Board panel shall be two qualified hearing officers.
 - (5) Detention Hearing. A Board hearing to determine whether or not to detain a parolee who is undergoing violation action.
 - (6) Director's Representative. Any qualified employee of the Department designated by the Director.
 - (7) Disposition Hearing. A Board hearing to determine whether or not to revoke the parole of a ward.

- (8) Full Board En Banc. A Board hearing conducted by a quorum of the seven-member Board. Four members are necessary to form a quorum when making case decisions and no action shall be valid unless agreed to by a majority of those present.
- (9) Full Board Panel: A full Board panel is comprised of ~~three qualified hearing officers one whom shall be a member. A quorum for a full Board panel shall be three qualified hearing officers, one of whom shall be a member.~~ those persons specified in Welfare and Institutions Code Section 1721 (c). A member shall be included in the panel when available.
- (10) Hearing Officer. A Member or case hearing representative, who conducts ward case hearings.
- (11) Rescission Hearing. A Board hearing which may result in rescinding a ward's referral to parole.
- (12) Referee. Any qualified hearing officer sitting alone for the purpose of hearing cases.
- (13) Violation Hearing. A Board hearing to determine whether or not a parolee has violated the conditions of his/her parole.

NOTE

Authority cited: Section ~~4722~~ 1721, Welfare and Institutions Code. Reference: Sections 1711, 1714, 1716, 1717, 1719, 1720, 1721, 1722 and 1723, Welfare and Institutions Code.